

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

LETTERS PATENT APPEAL No 475 of 2003

in

SPECIAL CIVIL APPLICATION No 4427 of 2003

with

CIVIL APPLICATION No 3370 of 2003

For Approval and Signature:

Hon'ble MR.JUSTICE KSHITIJ R.VYAS

and

Hon'ble MR.JUSTICE M.S.SHAH

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1. Whether Reporters of Local Papers may be allowed : NO
to see the judgements?
2. To be referred to the Reporter or not? : NO
3. Whether Their Lordships wish to see the fair copy : NO
of the judgement?
4. Whether this case involves a substantial question : NO
of law as to the interpretation of the Constitution
of India, 1950 of any Order made thereunder?
5. Whether it is to be circulated to the concerned : NO
Magistrate/Magistrates, Judge/Judges, Tribunal/Tribunals?

APEX ELECTRICALS LTD.

Versus

REGIONAL PROVIDENT FUND COMMISSIONER

Appearance:

1. LETTERS PATENT APPEAL No. 475 of 2003
MR MANISH R BHATT for Appellant No.
MR BHARAT T RAO for Respondent No. 1
RULE SERVED BY DS for Respondent No. 1
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CORAM : MR.JUSTICE KSHITIJ R.VYAS

and

MR.JUSTICE M.S.SHAH

Date of decision: 17/06/2003

Heard the learned counsel appearing for the respective parties at length.

2. After having gone through the order of the learned Single Judge, it appears that the learned Single Judge has not entered into the merits of the matter as he was of the opinion that the appellant must avail the alternative statutory remedy. In para 4 of the order, he has recorded the statement of the learned Senior advocate that the appellant requires some breathing time to challenge the order dated 7.10.2002 passed under Section 7-A of the P.F. Act before the appellate authority under Section 7-I of the said Act. He has further recorded the statement of the senior counsel that till the petitioner-Company approaches the appellate authority in the meantime, the respondent authorities may be restrained from taking any coercive measure against the petitioner. In fact, time of 15 days was granted to the petitioner to approach the appellate authority and, therefore, the learned Single Judge did not go into the merits of the case. Instead of approaching the appellate authority, the petitioner has preferred the present appeal. The learned counsel for the appellant wants us to examine the merits of the case and to decide the controversy between the parties. It is not possible for us to do so especially when there is no decision on merits in the petition preferred by the appellant. The learned counsel for the appellant seeks leave to withdraw this Letters Patent Appeal with a view to filing a review application before the learned Single Judge. The learned counsel states that within two weeks from today, the appellant will file a review application and approach the learned Single Judge.

3. In that view of the matter, the appeal stands rejected as withdrawn. Whatever interim relief which is in force at present shall continue till 30th June, 2003.

No order on the Civil Application.

(KSHITIJ R.VYAS, J.)

(M.S.SHAH, J.)

sundar/-